IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 24249 of 2007(J)

AGAINST THE ORDER IN EP.51/2003 IN
RCP.4/2001 of MUNSIFF COURT, THALIPARAMBA
.....

PETITIONER: APPELLANT:

BADI CHENDRASHEKARAN, S/O.KRISHNAN,
AGED 38 YEARS, KANNADIPPARAMBA, POST
KANNADIPPARAMBU, KANNUR TALUK AND DISTRICT.

BY ADV. SRI.VIVEK CHANDRAN

RESPONDENTS: RESPONDENTS:
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1. S.K.JISHIN MOHAN, S/O.CHANDRA MOHANAN,
AGED 30 YEARS, ARAYALTHARA, KAKKAD,
PUZHATHI AMSOM, POST KAKKAD, KANNUR TALUK.

2. V.N.LATHIKA, D/O.SHARADA,
AGED 54 YEARS, KANNAPPILAVU, NANICHERY POST,
ANDOOR AMSOM, TALIPARAMBU TALUK.

G.P. SRI P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. BALAKRISHNAN NAIR & HARUN-UL-RASHID, JJ.

W.P.(C) No.24249 of 2007

Dated, this the 9th day of August, 2007

JUDGMENT

Balakrishnan Nair, J.

The petitioner challenges Ext.P3 interim order dismissing his application for stay filed along with A.S.No.35 of 2007 on the file of the Subordinate Judge's Court, Payyannur. The said appeal was filed against Ext.P1 order. The petitioner offered obstruction when execution steps were taken in R.C.P.4 of 2001 on the file of the Rent Controller, Thaliparamba. The said R.C.P. was filed by the 1st respondent herein (landlord) for an order for eviction against the 2nd respondent herein (tenant). The petitioner claimed right over the tenanted premises on the strength of an agreement for sale executed by the 2nd respondent who is held by the Rent Controller to be a tenant under the 1st respondent landlord. The Execution Application filed by the petitioner in the Execution Petition in the above RCP was dismissed by Ext.P1 as not maintainable. As stated earlier, though an appeal along with a stay application was filed against Ext.P1, the stay application was dismissed by the impugned order Ext.P3. If we say something on the merits of the case, the same will cause prejudice to the petitioner while the appeal is heard. But we only say that we are not satisfied that this court should interfere with the order of the Appellate Court in the interim application. The same is not perverse and there is no miscarriage of justice warranting interference with it by this

Court under Art.227 of the Constitution of India. If ultimately the appeal is allowed, the petitioner can seek restitution. In view of the above, the writ petition is dismissed.

K. BALAKRISHNAN NAIR
JUDGE

HARUN-UL-RASHID,
JUDGE.

mt/